

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 9077 - SB 9014

October 28, 2021

SUMMARY OF ORIGINAL BILL: Prohibits the reduction or denial of unemployment benefits to an eligible claimant that leaves employment for refusing to receive an immunization or vaccination for COVID-19.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENT (010320): Deletes all language after the enacting clause and rewrites the bill creating a new title and establishes various regulations regarding COVID-19 as follows:

- Prohibits a governmental entity, school, or local education agency (LEA) from requiring a person to receive a COVID-19 vaccine or a private business or school requiring proof of vaccination as a condition of access or to receive the benefits of such entities;
- Prohibits a private business, governmental entity, school, or LEA from compelling a person to provide proof of vaccination;
- Prohibits a private business or governmental entity from instituting a face covering mandate as a condition of access or to receive the benefits of such entities except in severe conditions as defined in the title;
- Prohibits an employer from requiring an employee to wear a face covering or take adverse action against an employee who refuses to wear a face covering except in severe conditions as defined in the title;
- Establishes parameters by which a business, governmental entity, or employer may institute and renew face covering mandates for 14-day periods as well as exemptions for an individual not to wear a face covering;
- Establishes parameters by which the governing body of a school may require a person to wear a face covering on school property to include a written request by the principal or president to the governing body for the policy adoption, severe conditions exist, and the school's governing body adopts the policy on a school-by-school or campus-by-campus basis for no more than 14 days. Further requires the schools to provide N95 classification face coverings to persons 12 years of age or older. Persons objecting to wearing a face covering in schools based on documented health concerns or sincerely held religious beliefs are exempt from any requirements;
- Requires schools to provide reasonable accommodations to the extent practicable under the Americans with Disabilities Act and establishes guidelines for those accommodations;

- Prohibits the reduction or denial of unemployment benefits to an eligible claimant that leaves employment for refusing to receive an immunization or vaccination for COVID-19 and grants retroactive payment of benefits for claimants who may have been denied on such grounds;
- Grants the Commissioner of Health the sole authority to determine quarantine guidelines for persons who test positive for COVID-19 and closings of any private business or school due to COVID-19;
- Removes any authority of a local health entity or official, mayor, governmental entity, or school to quarantine a person or private business due to COVID-19;
- Prohibits a health care provider from providing a COVID-19 vaccine to a minor without written consent from the patient's parent or legal guardian with exceptions for suspected abuse or the patient is a dependent and neglected child;
- Establishes a clear and convincing standard for liability requiring a claimant to prove by clear and convincing evidence that the person proximately caused the loss, damage, injury, or death arising from a COVID-19 infection by an act or omission constituting gross negligence or willful misconduct;
- Prohibits any public funds, personnel or property of the state or any political subdivision of the state to be allocated for the implementation, regulation, or enforcement of any federal law, executive order, rule, or regulation that mandates administration of a countermeasure as defined by the federal Public Readiness and Emergency Preparedness (PREP) Act; and
- Requires the Commissioner of Revenue to notify the Attorney General and Reporter (AG) of a private business that received state grant funding or state tax credits if a court finds violations were committed. Authorizes the AG to initiate court proceedings to recover any state funds received by the private business and further prohibits the business from receiving state funds for a period of two fiscal years immediately following the fiscal year in which the violation was committed if funds are recovered;
- Entitles a person injured as a result of a violation of vaccine and face covering provisions to maintain a private right of action for injunctive relief and to recover compensatory damages and reasonable attorneys' fees against the alleged violator.
- Authorizes the Commissioner of Finance and Administration to identify a class of private businesses, governmental entities, schools, or employers as designated entities that are exempt from complying with any or all provisions of the proposed legislation due to conflict with federal rules, regulations or law. Any exemption can only exempt an entity from the provision of the legislation that jeopardizes federal funding.
- The Commissioner of Finance and Administration must file a written statement of each exemption with the Secretary of State's Office. Establishes expiration periods for exemptions and limitations for the Commissioner to reinstitute an exemption if the General Assembly does not make the exemption permanent. The Commissioner may revoke an exemption by filing a written statement with the Secretary of State that receipt of federal funding is no longer jeopardized.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- Any state or local governmental entities that cannot comply due to the loss of federal funds will receive an exemption from the Commissioner of Finance and Administration.
- Any entities receiving state funding in the form of state grants and tax credits will follow state law; therefore, it is assumed there will not be a significant increase in cases for the Department of Revenue or the Attorney General and Reporter. Any fund recovery efforts will not result in a significant fiscal impact.
- The proposed legislation codifies current practices of the Department of Labor and Workforce Development regarding unemployment compensation benefits and pertaining to employees leaving current employment. Therefore, this legislation will not result in a significant increase in state expenditures from the Unemployment Insurance Trust Fund.
- The provisions of the bill may lead to additional court cases within the state and local court systems. The number of court cases resulting from the provisions of the bill will not significantly increase the overall workload of the court systems; therefore, the fiscal impact to state and local government to handle these cases is considered not significant.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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